

THE LORD HIGH COMMISSIONER TO THE GENERAL ASSEMBLY

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I

BEGINNING OF THE COMMISSION.

AFTER the Reformation the question was early raised as to the relationship of the chief court of the Church to the ruling powers in the State. In the third General Assembly, that held in Edinburgh in December, 1561, Maitland of Lethington, who disapproved of the rigorous policy of some of the Reformers, expressed a doubt whether such meetings could be held without the consent of the monarch. "The question is," he said, "whether the Queen alloweth such conventions," to which some one, usually supposed to be Knox, replied in words which have become proverbial: "Take from us the freedom of Assemblies, and take from us the Evangel."¹ But the members were quite willing that Queen Mary should know what they were doing, and they suggested that those, who objected to the proceedings, should "counsell her Grace, if she were jealous of any thing to be treated, to send such as she would appoint to hear."²

At the Assembly held in the capital on Christmas Day, 1563, no less than nine members of the secret council were present, headed by "the duke"—Hamilton, Duke of Chatelherault—and they appear to have taken part in the election of a Moderator. This was the first Assembly to appoint one to that office, John Willock, Superintendent of the West, being chosen for the honour.³

It has been shown that the General Assemblies have many points in common with the Councils of the pre-Reformation Church, which met regularly in our land up to 1559. Indeed, it is worthy of note that the meeting-place of the 1559 Council was the same as that of the 1560 Assembly—the Magdalene Chapel in the Cowgate of Edinburgh—and that a number of persons present at the one were likewise present at the other. In those pre-Reformation Councils there were, occasionally at least, royal representatives. In 1459, when the Bishop of Aberdeen was

¹ Knox: *Works*, II, p. 296.

² Calderwood: *History*, II, p. 159.

³ *Ibid.*, p. 241.

Conservator—the ancient Moderator—of the Council, “there appeared, on the part of our most noble and excellent Prince and Lord, James II, King of Scots, a noble and puissant gentleman, Sir Patrick le Grahame, Knight, and Master Alexander Whitelaw, commissioners, as they said, from His Majesty the King.” The late Principal Story, in his well known work, *Apostolic Ministry in the Church of Scotland*, dealing with these pre-Reformation Councils, says: “Two doctors of the civil law were commissioned to attend on behalf of the king to communicate his wishes and to watch over the interests of the Crown and people.” This statement has been called in question, in so far as it is said that these doctors of civil law represented the interests of the King, but if Dr. Story is in error he is in good company, for a similar statement is made by Dr. Joseph Robertson, the eminent antiquary.¹

Be that as it may, it is possible that, in suggesting that the Queen should send representatives to the Assembly, the Reformers were thinking of pre-Reformation practice. At the time of the famous Glasgow Assembly of 1638, the appearance of the King's Commissioner was expressly connected by the Covenanting party with the practice of the early Church—“At the humble and earnest desire of the Assembly His Majesty graciously vouchsafed his presence either in his own royal person or by a commissioner . . . as princes and emperors of old, in a princely manner, to countenance their meeting and to preside in it for external order.” The document² from which this extract is taken is in all probability from the pen of Alexander Henderson, the Moderator. He doubtless recalled how the Emperor Constantine had attended the Council of Nicaea, and how Theodosius II had sent a representative to the Council of Ephesus. Sigismund, Emperor of the Holy Roman Empire, was present in person at the Council of Constance in 1415. The Bishops' party in 1638 put forward similar views as to the powers of the royal representative, and suggested that he should use that power to evict a number of the disputants from the Assembly, as Pulchreria, the Empress, had done in earlier days.³

In the Assembly, held in June 1564, “the courteurs and lords depending on the court conveyed not with their brethrein,” and the members gave commission to some of their number “to declare their mindes to the lords, which was done afternoone.” The result was that next day, a party, consisting of the Duke of Chatelhenrault, the Earls of Argyll, Murray, Morton, Glencairn, Rothes and some others, attended the Assem-

¹ *Statuta Ecclesiae Scoticae*.

² *The Protestation of the General Assembly of the Church of Scotland made in the High Kirk and at the Market Crosse of Glasgow, 1638.*

³ *The Declinator and Protestation of the Archbishops and Bishops of the Church of Scotland, Aberdeen, 1639.*

bly ; but instead of conferring with the ministers and elders they passed to the "inner counsel house."¹ Here they desired the "Superintendents and some of the learned ministers to conferre with them." After some debate this was agreed to, and a long dispute took place between Maitland and Knox regarding the latter's attitude to Queen Mary.

There is no evidence that there were any representatives from the Court at the Assembly of December 1564, but, in that held in the following June, the nobility who were present were asked "to be humble suters to her Highness for execution of the Acts lately made" against various classes of offenders.

II

In the next Assembly, which was held on Christmas Day in the same year, there is again no mention of any royal representatives being present, but probably the Lord Justice Clerk, the Register Clerk and the Lord Advocate, who attended, acted to some extent in that capacity. In the Assembly held in June 1566 there were six members, "all of the Privie Counsell," present, the chief of these being the Earl of Huntly, then Lord Chancellor.

Before the Assembly, held in July 1567, a missive was sent to "all erles, lords, barouns and commendatours of Abbeyes," requesting them to give their personal presence, their labours and concurrence to the Assembly ; but when the brethren convened it was found that many of those whose presence had been expected had not put in an appearance.

In 1567 James, Earl of Murray, became Regent. As is well known he was a supporter of the Reformed Church, and it was during his tenure of office that the Scots Parliament ratified the acts in its favour. These had been passed at earlier dates, but had never received the royal assent. Strangely enough, although the "Good Regent," as he was called, was so favourable to the new order of things, he was never in any of the Assemblies after he had been raised to that rank. In the fifth session of the Assembly, held in July 1569, Mr John Wood appeared bearing a letter from Murray. In this, which was written at Aberdeen, he explained that he had intended to be present with the brethren, but that other duties prevented him. Before the next Assembly was held, he had been assassinated by his enemies.

Murray was followed as Regent by the Earl of Lennox, father of Darnley, and so grandfather of the young King. When, on March 5, 1571, the "Generall Assemblie convened at Edinburgh in the Neather

¹ Calderwood : *Hist.*, II, p. 250. From this point onward quotations, unless otherwise marked, are from Calderwood.

Counsel house," a crave was presented from him asking that the members should leave the capital and hold their meetings at Stirling or Glasgow, where it would be more convenient for him to meet with the members. At that time Kirkcaldy of Grange held the Castle of Edinburgh for Queen Mary, and the Regent evidently thought that that city would not be too healthy for him. The Church, however, found that it could not grant the request owing to "sundrie impediments." Calderwood does not mention what these were, but we learn from another source that among them was the interesting one that "some of them wanted horses."¹ One has the feeling that, if the members had been keen to change their place of meeting, such an "impediment" could easily have been got over.

Lennox died in 1571 at Stirling as the result of wounds sustained in a fight with the rival faction. A few days after his burial John, Earl of Mar, was appointed Regent in his place. During this period there were several meetings between commissioners from the State and commissioners from the Church for conference on the affairs of both. The Convention of Leith, which in a manner restored Episcopacy to the Church, is perhaps the best known of these conferences.

Mar did not hold office long, dying on October 29, 1572, less than a month before the passing of Knox. On the day on which the Reformer "departit, that is the 24th day of November, the Erle of Morton was chosin Regent." It may be noted in passing that in his case the election took place after service in St. Giles, when "Johne Brand made the exhortatioun in the morning upon the first chapter of the Booke of Judges." Despite the fact that he had been so inaugurated, he was not inclined to pay much deference to the teaching, or claims of the Church. In the same year as he became Regent he was publicly rebuked by Andrew Douglas, minister of Dunglass, for living in adultery with the widow of Captain Cullen. His reply was to seize the minister and have him hanged.

Neither the Regent nor any commissioner appointed by him was present at either of the Assemblies held in 1573, though at the first held in March certain members were appointed to "concurr with my lord Regent's Grace and counsell, with so many as his Grace shall appoint to reason with them," regarding the affairs of the Church. At the second Assembly of that year Alexander Hay, "Clerk to the Secret Counsell, presented certan heeds propounded by my Lord Regent's Grace to the Assemblie." These "heeds" do not appear to have been debated by the brethren, but again certain of their number were commissioned to meet with the Regent and Council thereanent.

III

The following year the Assembly sent a request to Morton, asking him to make a point of meeting with them. "And now at this present, the kirk is assembled according to the godlie ordinance and looke to have the concurrence of their brethren in all estats: and wish of God that your Grace and Lords of the Privie Counsell will authorize the kirk in this present Assemblie, by your presence or by others having comissions in your Grace and lords' names as members of the kirk of God. For as your Grace's presence and the nobiliteis sould be unto us most comfortable, and so most earnestly wished of all, so your Graces absence is to our hearts most dolorous and lamentable." The brethren went on to say that by Act of Parliament there were to be two General Assemblies each year consisting not only of ministers but "also other members of all estats."

According to the chronicler the answer to this petition was "verie hard," for the Regent instead of complying with the request asked the commissioners who presented it, "Who gave them power to convocate the king's lieges without his advice who was in authoritie."

The members were abashed "at this suddane questioun and held their peace a long time." At length they answered that they were convened "at commandment of our Master and Head of the kirk, Christ Jesus." What effect this had on Morton is not stated, but the significant words close the record, "They gott not that answeare to their supplicatioun which they expected."

In October 1576 the Assembly, after it had been constituted, sent three members to the Regent Morton asking him to come to the Court himself, or authorize some commissioners to represent him. Morton replied that this "warning came so suddenly to him that he could not be present himself nor direct a commissioner," but he was willing to appoint some members of the Privy Council to meet with some of the ministers "at suche time as sall be thought good to confer upon suche things as may serve for the furtherance of God's glorie." A set of questions was presented to this Assembly by Alexander Hay, clerk to the Council, "whereof the Regent craved decision." These are not in the Registers, but Calderwood obtained a copy in a diary kept by John Johnstone of Elphinston, "a cheefe actor in the effaires of the Assemblie." These questions, numbering forty-two in all, show that Morton was not inclined to let the members have their own way in Church matters especially where stipends and Church funds were concerned. Calderwood was of opinion that the questions had been drawn up by Patrick Adamson, afterwards Archbishop of Glasgow, and for some time a thorn in the flesh of his brethren in the ministry. It appears that after some con-

sultation the heads of an agreement were reached on these troublous questions.

Six months later the members, emboldened perhaps by their success with regard to these matters, sent "certan of the brethrein" to Morton to confer with him on the policy of the Church. The brethren sent seem to have been well received for when they returned they reported that "his Grace liked weill their travells and labours taken in that mater and required expeditioun and haste." At the next meeting of the Assembly, October 1577, they sent two members to ask the Regent to "be present in proper person . . . or to direct his commissioner." But the two were soon back to tell their friends that "his Grace had not leisure to talk with them for his occupation." Thinking, maybe, that the two sent had not been acceptable to Morton, other two messengers were despatched, but they too returned with "the like answer, that his Grace was so occupied in earnest effaires of the Counsell that he had no leisure to conferre with them." The Assembly still insisted and a third deputation was sent. These returned with the answer that the Regent would not come to the meeting, but that he would meet with their commissioners the next day. It was evidently after this that, on being asked to be present, "he not only refused, but threatened some of the most zealous with hanging alledging that otherwise there could be no peace nor order in the countrie." Morton, as we have seen, was quite capable of carrying out his threat.

As we are told by Calderwood the Regent "mislyked the Generall Assembleis and would have had the name changed that he might take away the force and priviledge thereof." Had he continued in the Regency, it is at least possible that the Assembly would have ceased to be.

In March 1578 he resigned his high office and the young king took over the functions of government, being assisted by a Council of twelve members. The month following his resignation the Assembly met under the moderatorship of Andrew Melville, and at its second session sent three ministers to the Council of State to ask that "some of them might be elected as commissioners from his Hienesse to assist the Assemblie with their presence and counsell." They returned with the message that while the Council could not do anything that day, two would be sent on the next. Accordingly Lord Herries and the Abbot of Deir were present at the third session. These are probably the first who can be described as royal commissioners to the Assembly though Dr. Weir who compiled the list which appeared in the *Church of Scotland Year Book* (1913) began with the two who attended the Assembly in 1580.

That Lord Herries and his companion did not regard themselves as being members of the Supreme Court of the Church as those who had attended on behalf of "King and Counsell" in early days seem to have

done is shown by an incident which happened apparently on the occasion of their first visit. The brethren "thought meet" that certain articles, which had been drawn up, should be laid before the Council, but before they did so they asked that the two visitors should give their opinion concerning the same. "They answered they came not to vote or conclude, but were directed by the counsell to heare and observe the proceedings of the Assemblie."

IV

From this time onwards James regularly sent members of his Council to represent him in the Church Court. In 1579 the bearer of the King's missive to the Assembly was a minister, John Duncanson, "minister to the king's Majestie's houshold." The letter he brought is still to be read, and its opening words have been followed by many royal letters since—

"Right trustie and weilbelovits, we greete you heartilie weill. Understanding of your present Assemblie at Edinburgh and for the rumors that passe of some things to be treatted among you, which may seeme prejudiciall to that good order of the governement of the kirk and ecclesiasticall policie heeretofore long travelled in and hoped for; We have takin occasioun to shew oure minde in this behalfe to the minister of our owne hous, and some others of your number happening to be present with us, whom, in this caus, we have thought meete to use as oure messingers to carie our letter. . . . So looking to be informed of the successe of this our reasonable requeist and admonitioun, we committ you to the protection of God."

To this epistle the Assembly sent a somewhat lengthy reply, complaining of many things in the body politic which required amendment, and asking that he should do some "notable and excellent worke . . . for promoting of God's glorie and establishing of his true religioun the which no doubt sall be an exceeding honour and perpetual renowne that sall follow your Highnesse."

In the following Assembly there were two commissioners, and their commission, it may be said, was not presented by either of them but by John Craig who is described as "one of the ministers of the king's house." It was in the following terms.

"Trustie and weill-beloved freinds we greete you weill. We have directed toward you our trust freinds, the Pryour of Pittinweeme and Laird of Lundie, instructed with our power to that effect for assisting you with their presence and counsell in all things which may tend to the glorie of God and preservatioun of us and our

estat ; desiring you heartilie to accept them and our goodwill committed to them for the present in good part. So we commend you to God's blessed protection.

(Sic Subscribitur) JAMES R.

From our palace of Falkland the 12th day of Julie 1580."

In replying to this letter, which was done at considerable length, the members took care to direct the attention of the King and Council to the many things which still required to be put right, and asked that replies should be made to all the articles which they laid before the authorities.

No commissioner appeared at the Assembly held in October 1580, and a message was sent to the " king's Majestie to require of his Highnesse humblie that he would direct some persons authorized with his Highnesse commission to concurre with them in their Assemblie." Although a satisfactory answer was given to the brethren who presented the message, there is no reference in the records to any royal representative being present.

In April 1581 the Assembly met in Glasgow when " Our trustie and welbeloved William Cunninghame of Caprinton " presented the " king's Majestie's letter to the Assemblie containing also a commission from his Highnesse, to concurre with the Assemblie." The commission has not been preserved, but the " instructiouns " which were given to Caprinton, " with advice of the Lords of our Secreit Counsell," are still extant ; and, in addition to directions to the commissioner showing how he was to act, these contain a number of replies to questions put to the King by the Assembly.

In the later Assembly, held in the same year, there was no commissioner in the earlier part of the sittings, but the King in answer to a request promised to send one or more. Whether he did so is not known ; but there is no reference to any in the records, unless James Chisholme, " the king's maister of houshold," is to be regarded as such. He, we read, " compeered in the Assemblie and in his Highness name desired the Assembly to [dis] continue all farther proceedings against Mr Robert Montgomerie, till three or four of that number conferred with the counsell, at what time the Assemblie sould think good." A little later another messenger came from the King. This was James Melvill, a " gentleman of the king's chamber," who presented a missive asking that Mr Walter Balcalquall should be tried for certain expressions used in a sermon, reflecting on the King's cousin, Esme, Duke of Lennox. The members sent to the king asking that witnesses and an accuser should be produced, and as these did not appear, they, after hearing the accused minister, decided that he had " utered nothing in that sermon erroneous,

scandalous or offensive." Perhaps none of these messengers should be regarded as a royal commissioner in the usually accepted meaning of the term.

In April 1582 "Mr Mark Ker, Maister of Requests, sonne to the Lord Newbottle, presented the king's letter to the Assemblie. . . . This letter being read in open Assemblie the brethrein praised God that moved the king's Hienesse to send a commissioner."

In October 1582, "in presence of the whole Assemblie, compeered Mr James Halyburton and Colonell William Stewart and presented the king's Majesties commissioun in writt, the tenor whereof followeth: We by the tenor heerof, with advice of the Lords of our Secretit Counsell give grant full power, authoritie and commissioun to our right trustie and weill-beloved Mr James Halyburton, Proveist of Dundie, and Colonell William Stewart, conjunctlie and severallie, for us and in our name, to pass to the Generall Assemblie of our realms, and there to hear and consider the maters proponed, tending to the advancement of God's glorie and his true religioun, for correctioun of manners and reteaning of the ecclesiastical maters in decent and comlie order as the Word of God alloweth; and to report the maters proponed and intreated of to us for our allowance and ratificatioun of the same as apperteaneth. And generallie all and sindrie other things to doe, that to the furtherance and assistance of all godlie and good maters are necessarilie required, firm and stable, &c. Subscribed with our hand at Halyrudhous, the 10th day of October, the yeere of God 1582, and of our raigne the 16th yeere." It will be seen that this goes further than the commission granted two years before; and that James was beginning to show that he regarded himself as a greater power in the affairs of the Church than many of the ministers were prepared to allow him to be. Colonel Stewart was not a new figure in the Assembly, for he had appeared in that of 1580 as the "xxxxxxx of Pittenweeme." According to Calderwood he had gained his colonelcy on the continent having been originally "cloutter of old shoes."

In the April Assembly of 1583 the commissioners were Mr James Halyburton, Provost of Dundee, and Davied Carnegie, Laird of Colluthie, who "presented certain instructions directed with them by the king's Majestie and his counsell." In the October Assembly of that year there does not appear to have been any commissioner from the King though a long letter was read from him in answer to one which had been sent to him by the Assembly.

Up to this time there had been two meetings of the supreme court of the Church every year, but in 1584 a Proclamation was issued forbidding the holding of any "assembleis as weil civill as ecclestaticall." James

at this time was playing a double game. While outwardly he was a Protestant, he was at the same time quite ready to join in the plots of the Roman Catholic powers. A letter written by him, or at least for him, to the Pope in February 1584 makes strange reading.¹ "I hope to be able to satisfy your Holiness on all other points, especially if I am aided in my great need by your Holiness." Scotland was still far from being entirely a Protestant country, and James, in view of the uncertainty which hung over the future, wished to have a foot in both camps. The reason given for forbidding these "convocations of the leiges" was the conspiracy which had been hatched by the Earls of Mar and Angus, with a number of others, to seize the king and put an end to the supremacy of the Earl of Arran, who was the real ruler of the country.

¹ Hume Brown : *History*, II., p. 193.

